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Item 20 of the provisional agenda*

COOPERATION BETWEEN THE UNITED NATIONS AND THE ASIAN-AFRICAN LEGAL CONSULTATIVE COMMITTEE

Report of the Secretary-General

1. The present report is prepared pursuant to paragraph 5 of General Assembly resolution 45/4 of 16 October 1990, entitled "Cooperation between the United Nations and the Asian-African Legal Consultative Committee".

2. The General Assembly, by resolution 35/2 of 13 October 1980, accorded permanent observer status to the Asian-African Legal Consultative Committee (AALCC) and invited the Committee to participate in its sessions and work in the capacity of observer. A Permanent Observer Mission to the United Nations was soon thereafter established in New York. On the occasion of the commemoration of the Committee's twenty-fifth anniversary, the Assembly, in its resolution 36/38 of 18 November 1981, requested the Secretary-General of the United Nations to carry out consultations with the Secretary-General of AALCC with a view to strengthening further and widening the scope of cooperation between the two organizations in the field of progressive development and codification of international law and other areas of common interest; and decided to include in the provisional agenda of its thirty-seventh session an item entitled "Cooperation between the United Nations and the Asian-African Legal Consultative Committee". In its resolution 39/47 of 10 December 1984, the Assembly commended AALCC for orienting its programme to strengthen its supportive role to the work of the United Nations in wider areas.

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3. In May 1987, following a series of consultations and meetings between the two Secretariats, a programme of cooperation was drawn up which identified nine specific areas, namely: cooperative framework; representation at meetings and conferences; Sixth Committee matters; law of the sea matters; question of refugees; efforts towards strengthening the role of the United Nations; illicit traffic in narcotic drugs; international economic cooperation for development; and zones of peace and international cooperation.

4. In its resolution 45/4, the General Assembly noted the continuing efforts of AALCC towards strengthening the role of the United Nations and its various organs, including the International Court of Justice, through programmes and initiatives undertaken by the Committee; the commendable progress achieved towards enhancing cooperation between the United Nations and AALCC in wider areas; and the decision of AALCC to participate actively in the programmes of the United Nations Decade of International Law.

A. Cooperative framework

5. Pursuant to the cooperative framework agreed in 1987, consultations have been routinely conducted on matters of common interest between the secretariat of AALCC and the competent offices and organs of the United Nations, in particular, regarding representation at meetings and sessions, exchange of documentation and information, and the identification of areas where the supportive role of AALCC might be most productive. In light of these consultations, AALCC has tried to orient its work programmes to accord priority to matters that are of current interest to the United Nations and to initiate actions with a view to strengthening the role of the United Nations. The areas of cooperation now cover matters in the economic and humanitarian fields in addition to progressive development and codification of international law.

B. Representation at meetings and conferences

6. During the period under review, the Asian-African Legal Consultative Committee was represented at various meetings and conferences held under the auspices of the United Nations and its organs and agencies, including the regular sessions of the General Assembly, the International Law Commission, the United Nations Commission on International Trade Law (UNCITRAL), the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, the Preparatory Committee for the United Nations Conference on Environment and Development, the Meeting of Senior Environmental Law Experts on the Progress made on the 1981 Montevideo Programme and Preparation for the Second Meeting on Development and Periodic Review of Environmental Law held at Geneva in July 1991, the International Working Group on the Creation of an Effective International Crime and Justice Programme held at Vienna in August 1991 and the United Nations Conference on Environment and Development (UNCED).

7. With a view to assisting its Member States in preparing for UNCED, the secretariat of the Committee has been represented at most of the meetings of the Preparatory Committee for UNCED; the Intergovernmental Negotiating Committee on the Framework Convention on Climate Change as well as the Intergovernmental Negotiating Committee on a Convention on Biological Diversity. AALCC circulated a statement of General Principles of International Environmental Law in the form of a working document (A/CONF.151/PC/WG.III/5) at the final session of the Preparatory Committee for UNCED held in New York in 1992.

8. The thirty-first session of AALCC, which was held at Islamabad, Pakistan, in 1992, was attended, inter alia, by the Registrar of the International Court of Justice, the Chairman of the International Law Commission, the Director of the Codification Division of the Office of Legal Affairs (on behalf of the Legal Counsel) and officials representing the United Nations and the Office of the United Nations High Commissioner for Refugees (UNHCR).

C. Role of the United Nations and the United Nations Decade of International Law

9. As a part of its contribution to the commemoration of the fortieth anniversary of the United Nations, the secretariat of AALCC prepared a study on "Strengthening the role of the United Nations through rationalization of functional modalities with special reference to the General Assembly" (A/40/726 and Corr.1, annex). The study provided an overall assessment of the functioning of the United Nations, focusing on certain specific matters and issues. Subsequently, AALCC prepared a set of recommendations on the improvement of the functioning of the General Assembly (see A/41/437, annex). AALCC continues to follow up the implementation of the relevant resolutions relating to this subject as well as the progress on various other related proposals.

10. Pursuant to General Assembly resolution 44/23 of 17 November 1989, in which the Assembly, inter alia, declared the period 1990-1999 as the United Nations Decade of International Law, the secretariat of AALCC prepared a paper identifying a number of issues involved and of activities that may be taken during the Decade. At its twenty-ninth session held in Beijing in March 1990, AALCC, while endorsing the secretariat's proposals, urged greater collaboration with the United Nations in this regard. A report on the role that AALCC can play in the realization of the objectives of the Decade was submitted to the Secretary-General under that topic (see A/45/430, annex; see also para. 13 below).

D. Promoting wider use of the International Court of Justice

11. At the fortieth session of the General Assembly, a study by AALCC on the question of possible wider use of the International Court of Justice by a compromis when the parties so agree, was submitted and circulated to Member

States (see A/40/682, annex). The study focused attention on the advantages to be obtained by using the Court or its Special Chamber in preference to using ad hoc arbitral tribunals. A colloquium on the role of the Court in disputes referred to it by Member States by means of special agreement was subsequently held at United Nations Headquarters to provide opportunities for in-depth explanation of the available procedures under the Rules of Court for resolving disputes in matters referred under special agreements, with special reference to hearing of cases by a chamber of the Court at the request of the parties.

12. A meeting of the Legal Advisers of the member States of AALCC, convened at United Nations Headquarters in New York in November 1991, inter alia, considered the issue of peaceful settlement of disputes. In addressing the meeting, the President of the International Court of Justice, Sir Robert Jennings, said that he had found renewed support for the Court in the General Assembly; he also emphasized, inter alia, the importance of the advisory opinions of the Court as an instrument of preventive diplomacy.

13. Recently, the secretariat of AALCC has undertaken preparation of a study on the enhanced utilization of the International Court of Justice in matters relating to the protection and preservation of the environment. A memorandum outlining the basic approach of the study was submitted to the Registrar of the International Court of Justice. In this context, it should be noted that the General Assembly, in its resolution 44/23 entitled "United Nations Decade of International Law", recognizes that one of the main objectives of the Decade is to promote means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice.

E. Measures designed to further the work of the Sixth Committee

14. Pursuant to its programme of rendering assistance to its member States for active participation in the work of the General Assembly, AALCC has, since 1982, prepared notes and comments on items before the Sixth Committee, including the report of the International Law Commission. In addition, consultations have been arranged from time to time during the General Assembly between the representatives of member States of AALCC and other interested Governments to provide opportunities for an exchange of views on those matters. An informal consultation of the Legal Advisers of AALCC member States is planned for the latter half of October to consider those matters.

15. AALCC continues to maintain its links with the International Law Commission and has included in its current work programme the question of non-navigational uses of international watercourses - a subject under consideration by the Commission. At its thirty-first session, the Committee, inter alia, requested the International Law Commission to take up as a priority item the subject "Legal aspects of the protection of the environment of areas not subject to national jurisdiction (global commons)".

16. Collaboration has also continued between AALCC and UNCITRAL. The secretariat of AALCC was represented at the UNCITRAL Congress on Uniform Commercial Law in the Twenty-first Century, held in New York in May 1992, in conjunction with the twenty-fifth session of UNCITRAL. The secretariat is now in the process of preparing notes and comments on the items discussed in the course of the aforementioned Congress for the use of its member States when those items are to be discussed at the next session of UNCITRAL.

F. Measures for the promotion of ratification and implementation of the United Nations Convention on the Law of the Sea

17. AALCC has considered the question of encouraging and facilitating the ratification of the United Nations Convention on the Law of the Sea, and has urged its member States signatories to the Convention to ratify it in order to allow its early implementation. AALCC has also made an appeal to all other States to consider ratifying or acceding to the Convention at the earliest possible date. At its Cairo (thirtieth) session in 1991, AALCC considered a note prepared by its secretariat on the significance and cost of ratification of the Law of the Sea Convention. Subsequently, AALCC also discussed matters relating to the Preparatory Committee for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea. At its thirty-first session, AALCC urged the International Law Commission to consider including in its work programme an item entitled "Reservation for peaceful purposes of the international sea-bed area and the high seas for marine scientific research".

G. International economic cooperation for development

18. Since the eleventh special session of the General Assembly, held in 1980, AALCC has concentrated on the question of international economic cooperation for development and, to this end, it has participated in the sessions and meetings of the Economic and Social Council, UNCTAD and UNCITRAL. Various suggestions have been put forward for consideration by its members. AALCC has also prepared model bilateral agreements for promotion and protection of investments, so as to generate a wider flow of capital and technology to the developing countries in the Asian-African region. Steps are now being taken to promote wider appreciation of the models among the Governments of the Asian-African region.

19. AALCC is in the process of preparing a legal framework for industrial joint ventures. It has begun the compilation of relevant information with the intention to prepare a legal guide on joint ventures similar to the one prepared by UNCITRAL on drawing up of international contracts for industrial works.

20. Under an AALCC scheme for settlement of disputes in economic and commercial transactions, three regional arbitration centres have been established at Kuala Lumpur, Cairo and Lagos. One of the objectives of these

centres is to help in the promotion and implementation of the UNCITRAL arbitration rules. Negotiations concerning the establishment of another similar regional arbitration centre at Tehran, intended primarily for oil arbitration, are at an advanced stage.

21. In response to a request, the secretariat of AALCC prepared a feasibility study on establishing a centre for research and development of legal regimes applicable to the economic activities in developing countries. The secretariat of AALCC prepared further a study on how to strengthen its capabilities to collect and disseminate information and data from various United Nations agencies and other bodies. A Data Collection Unit has been established recently at its headquarters at New Delhi to acquire expertise in collecting and analysing the necessary data and to develop the requisite expertise. The Unit has reportedly acquired the requisite hardware and is in the process of preparing the necessary software; it has requested the member States of the Committee as well as the relevant international organizations to make available to the Unit the requisite data in this regard.

22. An item on the debt burden of developing countries has been on the agenda of the Committee since its Kathmandu (twenty-fourth) session in 1985. The subject was also considered by an Expert Group Meeting held at New Delhi in November 1986. The secretariat prepared several studies on the subject which were considered by successive sessions. A paper entitled "Legal aspects of international loan agreements" was circulated at its Singapore (twenty-seventh) session in 1988. The current phase of work on the subject includes inter alia a study of the legal aspects of loan rescheduling. At its twenty-ninth session, the secretariat of AALCC was requested to continue monitoring developments in this field and to formulate a set of legal principles and guidelines on that subject. The Committee could not, however, consider the item at its recent session, largely owing to lack of time.

H. Question of refugees

23. In cooperation with UNHCR, AALCC has, since 1964, been actively engaged in the study of refugee law and refugee problems. Its work on these subjects led to the adoption of its Bangkok Principles in 1966 and an addendum thereto in 1970. This pattern of cooperation was reactivated following the adoption by the General Assembly of its resolution 36/38 and the AALCC decision at its Tokyo (twenty-second) session in 1983. The deliberations at that session paved the way for closer cooperation between AALCC and UNHCR. At its Kathmandu (twenty-fourth) and Arusha (twenty-fifth) sessions in 1985 and 1986, respectively, AALCC gave detailed consideration to the "principle of burden-sharing", and a consensus was reached at the twenty-fifth session that the concept of burden-sharing had become through the practice of States, "a principle of humanitarian refugee law".

24. At its Bangkok (twenty-sixth) session in 1987, AALCC adopted another addendum to its Bangkok Principles of 1966, which elaborated the concept of burden-sharing. AALCC also examined the question of State responsibility in

regard to refugees. At its twenty-fifth session, the secretariat of AALCC was asked to examine the concept of a safety zone for the displaced person in the country of origin. During its twenty-sixth and twenty-seventh sessions, AALCC held discussions on this matter, centring on the legal status of such a safety zone and the circumstances under which a safety zone could be established in the country of origin of refugees or displaced persons. Currently, the secretariat of AALCC is re-examining the definition of the term "refugee" and is preparing a compendium of legal principles and case law on various issues relating to refugees. At the twenty-ninth session, the secretariat was mandated to prepare a study on the right and duties of refugees as well as on the obligation of States towards refugees.

25. In 1991, AALCC organized jointly with UNHCR a two-day workshop at New Delhi on "International Refugee and Humanitarian Law in the Asian-African Region". The objective of the workshop was to enhance the awareness of government authorities of member and non-member States of the region of the comprehensive character of the international instruments concerning refugees and, in particular, to promote the ratification of or accession to the 1951 Convention and the 1967 Protocol relating to the Status of Refugees among AALCC member States. The workshop, inter alia, recommended that the secretariat of AALCC should consider the possibility of preparing a draft model legislation relating to refugees. Such a draft model legislation is being prepared by the secretariat of AALCC to help its member States in formulating their national legislation on the subject and in implementing the 1951 Convention and the 1967 Protocol and other relevant regional instruments on refugees.

I. Zones of peace and international cooperation

26. At its twenty-fourth session, AALCC considered the concept and legal framework of a zone of peace in the context of a reference made by a member State and a preliminary study on the concept prepared by the secretariat. The matter was further discussed at the twenty-fifth session and it was decided that an expert group would consider the contents and implications of various proposals on the establishment of peace zones made within and outside the United Nations. Thereafter, a study on the Indian Ocean as a zone of peace was considered at the twenty-ninth session. The secretariat of AALCC was requested to establish close cooperation in this regard with the United Nations Ad Hoc Committee on the Indian Ocean.

27. AALCC has included in its work programme a topic entitled "Elements of a legal instrument on friendly and good-neighbourly relations of States in Asia and the Pacific". At the twenty-sixth session, it was decided to widen the scope of the topic to include the African region as well and to appoint the delegate of Mongolia as the Rapporteur. At the twenty-seventh session, the discussion centred on the Rapporteur's report. The Rapporteur prepared a further report for the twenty-ninth session, examining the relevance of certain principles such as the principle of sovereign equality of States; the non-use of force or threat of force; peaceful settlement of disputes; respect

for territorial integrity and inviolability of frontiers; the principle of promotion of collective security and disarmament; and State responsibility. This topic is on the agenda of the Committee's forthcoming session scheduled to be held at Kampala in February 1993.

J. Illicit traffic in narcotic drugs

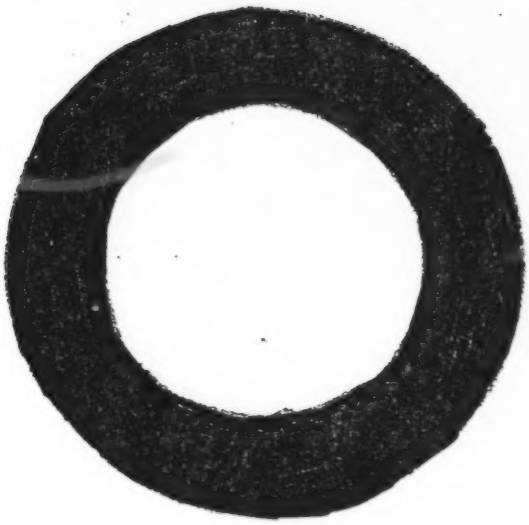
28. Pursuant to a decision taken at the twenty-fourth session, the secretariat of AALCC prepared a study entitled "International control of narcotic drugs and psychotropic substances: efforts within the United Nations". This study was submitted to the General Assembly on the occasion of the fortieth anniversary of the United Nations.

K. Other issues currently before AALCC

29. At its twenty-seventh session, AALCC included an item on its agenda entitled "Criteria for the distinction between terrorism and the people's struggle for liberation". The subject was discussed at the twenty-eighth and twenty-ninth sessions of the Committee. The secretariat was asked to work in close coordination with the Sixth Committee of the United Nations where a similar item has been under consideration.

30. At its twenty-seventh session, AALCC included an item in its agenda entitled "Deportation of Palestinians as a violation of international law, particularly the 1949 Geneva Conventions". At its twenty-eighth session, AALCC considered the customary and codified law relating to occupied territories, and briefly discussed the duties of occupying power. The Committee then directed its secretariat to undertake a comprehensive study on the subject, including the question of payment of compensation to Palestinians. The study prepared by the secretariat was considered by AALCC at its twenty-ninth session, which directed the secretariat to prepare a further study taking into account all legal aspects of the matter, including the issues of resettlement in violation of international law by Israel of a large number of Jews from the former Soviet Union into Palestine. Thereafter, the matter was also considered at its thirtieth and thirty-first sessions.

31. At its twenty-ninth session, the Committee directed the secretariat to undertake a study on cooperation between the Asian-African countries to ban the dumping of toxic and other wastes into their countries and to cooperate in the formulation of regional or subregional conventions banning the dumping of toxic and other wastes. AALCC and the United Nations Environment Programme (UNEP) are planning to organize a joint meeting on the topic during 1992.



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REPORT OF THE SECRETARY-GENERAL ON THE WORK OF THE ORGANIZATION

COMPREHENSIVE REVIEW OF THE WHOLE QUESTION OF PEACE-KEEPING OPERATIONS IN ALL THEIR ASPECTS

Special report of the Special Committee on Peace-keeping Operations

Rapporteur: Mr. Ehab Fawzy

1. In addition to its annual session, held between 24 April and 1 June 1992, the Special Committee on Peace-keeping Operations met on 17 August 1992 and decided to hold additional discussions focusing on the report of the Secretary-General entitled "An agenda for peace: preventive diplomacy, peacemaking and peace-keeping" (A/47/277-S/24111), and to prepare, based on the discussions to take place, a special report of the Special Committee.

2. In deciding to convene for this purpose, the Special Committee recalled that, in the part of its report (A/47/253) containing the conclusions and recommendations adopted on 1 June 1992, it welcomed the increasing recognition of the role of the United Nations in the areas of preventive diplomacy, peacemaking and peace-keeping. On the same report, the Special Committee further stated that it looked forward to the report of the Secretary-General on the ways of strengthening the capacity of the United Nations for preventive diplomacy, peacemaking and peace-keeping within the framework and provisions of the Charter of the United Nations, as requested by the Security Council Summit of Heads of State and Government held on 31 January 1992.

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3. The Special Committee further recalled General Assembly resolution 46/48 of 9 December 1991, in which the Assembly recognized that peace-keeping operations were an evolving concept calling for increased attention and ongoing evaluation by Member States, in conformity with the purposes and principles of the Charter. In the same resolution, the Special Committee was urged, in accordance with its mandate, to continue its efforts for a comprehensive review of the whole question of peace-keeping operations in all their aspects, with a view to strengthening the role of the United Nations in this field.

4. In convening for the additional discussions, the Special Committee was mindful of the fact that, in accordance with the calendar of conferences and meetings of the United Nations for 1992-1993, as adopted by the General Assembly in its resolution 46/190 of 20 December 1991, the Special Committee was entitled to meet on an "as required" basis with exact timing determined in accordance with the availability of services and facilities.

5. Elected for a term of one year at its 104th meeting, on 24 April 1992, the Bureau of the Special Committee served in the same composition as follows: Mr. Ibrahim A. Gambari (Nigeria), as Chairman; Mr. Alejandro Hector Nieto (Argentina), Mr. Philippe Kirsch (Canada), Mr. Shigeki Sumi (Japan) and Mr. Robert Mroziewicz (Poland), as Vice-Chairmen; and Mr. Ehab Fawzy (Egypt), as Rapporteur.

6. At its 110th meeting, on 17 August 1992, the Special Committee decided to grant, in accordance with paragraph 36 of General Assembly resolution 46/48, observer status to those States which participated as observers in the previous meetings of the Special Committee and its open-ended Working Group, held between 24 April and 1 June 1992. Those observers were: Belgium, Brazil, Bulgaria, Colombia, Cyprus, Fiji, Finland, Greece, Iran (Islamic Republic of), Ireland, Libyan Arab Jamahiriya, Malaysia, Nepal, New Zealand, Norway, Peru, Portugal, Republic of Korea, Senegal, Sweden, Tunisia, Turkey, Ukraine and Uruguay, as well as the Permanent Observer of Switzerland. In addition, the Special Committee granted observer status to Azerbaijan, Chile and Cuba at their request.

7. The Special Committee held two meetings of its open-ended Working Group on 18 August 1992.

8. The Working Group embarked on the discussions based on a common understanding that the debate would be limited to a general exchange of views on the report of the Secretary-General (A/47/277-S/24111) without drafting a set of conclusions and recommendations. Stressing the need for further careful analysis and consideration of the report, most delegations stated that, at this time, they were only expressing their preliminary views on the report, primarily those ideas related to the mandate of the Special Committee. Several delegations underlined the importance of the preliminary exchange of views on the report in the Special Committee in its capacity as a subsidiary body of the General Assembly. Many delegations also stated that they looked forward to fruitful discussions on the report in the General

Assembly, at its forty-seventh session, and in the Security Council and other relevant United Nations organs and bodies. Some delegations felt that discussions on the report during the general debate of the Assembly would provide an important input for its consideration in other forums. Finally, it was stated that not everyone was prepared to comment substantively on the report in view of the incomplete state of the internal review being conducted by some Governments, and in view of the desirability of its initial consideration by other forums.

9. During the discussions, delegations were unanimous in welcoming and appreciating the report of the Secretary-General which, in their view, was a valuable and timely contribution aiming at strengthening the role of the United Nations in the maintenance of international peace and security. The report, they acknowledged, was a comprehensive effort by the Secretary-General to relate the policy and practice of United Nations preventive diplomacy, peacemaking and peace-keeping to the changing nature of political and security challenges in the contemporary world. As such, it contained some bold, innovative and thought-provoking recommendations on a wide range of aspects of the mandate of the Organization in the field of the maintenance of international peace and security. It was the belief of some delegations that those recommendations merit very careful and thorough consideration not only by the Security Council but also by the General Assembly and its subsidiary organs, in particular the Special Committee on Peace-keeping Operations, as well as other United Nations organs and bodies, as some of the recommendations in the report had a direct bearing on their respective mandates.

10. Before commencing discussions on specific points in the report of the Secretary-General, some delegations expressed their full support for the integrated approach taken by the Secretary-General regarding the maintenance of international peace and security. They shared the belief underlying the Secretary-General's report that peace could not be safeguarded merely through a narrow perspective confined to military issues. For them, the maintenance of international peace and security was a much wider concept, encompassing political as well as economic, social, humanitarian and environmental issues. According to those delegations, it was incumbent upon the United Nations to ensure success in all these fields, with particular attention devoted to the requirements and problems of developing countries.

11. Furthermore, some delegations fully shared the view with the Secretary-General that all organs of the United Nations must be accorded and play their full and proper role, and that the General Assembly, like the Security Council and the Secretary-General, also had an important role assigned to it under the Charter for the maintenance of international peace and security. Maintaining that issues on international peace and security needed to be approached in an integrated and balanced manner so that each United Nations organ played the due role accorded to it under the Charter, they stressed the need for greater communication and dialogue between the Security Council and the General Assembly in the field of international peace and security. Also stressed by those delegations was the need for enhanced transparency in the Council's deliberative and decision-making process, the

need for more effective consultations with Member States that were not members of the Council, and the need for the Council to listen to the wider membership of the United Nations.

12. Moreover, some delegations endorsed the view of the Secretary-General that, in addressing various problems on the maintenance of international peace and security, "the principles of the Charter must be applied consistently, not selectively, for if the perception should be of the latter, trust would wane and with it the moral authority which was the greatest and most unique quality of that instrument". They believed that the ability of the United Nations to prevent and settle conflicts and preserve international peace was to a large degree dependent on the credibility of the principles of the Charter. This fundamental rule should govern the deliberations and decisions of the United Nations, in particular the Security Council.

13. During the discussions, agreement was expressed with the thesis contained in the report of the Secretary-General that, now that countries and peoples were increasingly appealing to the United Nations for assistance in order to maintain peace, fundamental decisions should be taken aimed at strengthening the peacemaking potential of the Organization. In this connection, a view was expressed that further consideration of a declaration on United Nations peace-keeping operations in the Special Committee would give tangible impetus to the further development of these operations, at the global, regional and subregional levels.

14. Some delegations were of the view that the recommendations made by the Secretary-General on preventive diplomacy, including those relating to information gathering and reporting by other United Nations agencies and organs, merit careful and serious examination by the competent organs and bodies of the United Nations. Some delegations expressed support for these recommendations. They agreed with the Secretary-General that the timely provision of more accurate and adequate information to the United Nations system and the strengthening of its information gathering and analysis capacity were essential preconditions for the greater use of preventive diplomacy. They further suggested that the United Nations should rationalize and enhance its capability to collect, analyse and disseminate information on current and potential threats to international peace and security. To that end, they believed that an operative link must be established between the collection and analysis of information and the carrying out of possible subsequent action by the Secretary-General and the Security Council.

15. A number of delegations also suggested that the Secretary-General should be encouraged to exercise more often his responsibilities under Article 99 of the Charter. At this juncture, many delegations endorsed the greater use of fact-finding missions, as proposed in the Secretary-General's report.

16. Some delegations proposed, in this context, that the possibility of dispatching fact-finding missions without the consent of all relevant parties should be explored, bearing in mind the provisions of the Charter. However, some delegations made it clear that, in their view, the consent of all parties concerned was a prerequisite for the dispatch of such a mission.

17. Interest was shown by some delegations in the Secretary-General's suggestion that preventive deployment of peace-keeping troops might take place to deter aggression or conflict between States, possibly involving deployment to only one side of an international boundary and thus without the consent of all the parties concerned. The debate on this issue exhibited contrasting views by delegations.

18. Some delegations indicated that the suggestion was a valid idea worth serious consideration. While acknowledging that there might be difficulties with the timing of the dispatch of such troops in a given crisis, they held that preventive deployment of peace-keeping forces might be a good idea to be drawn upon on a case-by-case basis.

19. However, a cautious approach was advised by other delegations to the proposed idea of preventive peace-keeping operations which, in their view, went far beyond the traditional principle of peace-keeping operations. They pointed to the danger that such deployment on one side of the line of conflict, possibly in the absence of the consent of all the parties to a potential conflict, might well jeopardize the neutrality of the United Nations.

20. Furthermore, some delegations noted that preventive deployment might prove to be a resource-intensive and costly exercise, particularly if it were not time-bound. They suggested in this respect that any preventive deployment of peace-keeping operations should be clearly limited, in advance, by specific time-frames and objectives and should be supported by a very active programme of preventive diplomacy.

21. Those delegations with some reservations about the idea of preventive peace-keeping deployment expressed the strong belief that the main principles of peace-keeping, having been developed and established in the course of the Organization's past experiences, had a validity not only for the peace-keeping operations of today, but for the concept of such operations in the future. Those principles, such as the maintenance of cease-fire, the consent of the conflicting parties to accept the respective operation, non-use of force except for self-defence, and impartiality should remain the key elements for the successful implementation of peace-keeping operations.

22. Some delegations were supportive of the proposal to establish, in certain cases, a demilitarized zone as a preventive measure in advance of conflict. Some delegations felt that the proposal required further examination by the competent bodies of the United Nations.

23. In the view of those delegations, the idea of preventive deployment in the event of an internal crisis, at the request of the Government or all the parties concerned, to help with humanitarian assistance or conciliation should also be followed on a case-by-case basis. Also, some delegations felt that the proposal required further examination by the competent bodies of the United Nations.

24. Doubtful about the merit of expanding the peace-keeping concept into untapped fields, some delegations expressed a deep concern about the possible erosion of a principle regarding the prior consent of all parties concerned, and reiterated that this principle was absolutely essential for deployment of any peace-keeping operations. Those delegations stressed once again the necessity to continue abiding by the principle of obtaining the consent of the parties concerned for any United Nations actions, whether they related to fact-finding missions under the concept of preventive diplomacy or the dispatch of peace-keeping operations. Referring to the relevant parts of the Secretary-General's report, a view was expressed that any abridgement of the State's sovereignty could not be accepted, whether it was on grounds of finding a balance between globalism and nationalism, or on grounds of self-determination.

25. With respect to the principles of peace-keeping operations, some delegations drew particular attention to the definition of peace-keeping operations in the report of the Secretary-General which, in their view, contained a new factor embodied in the wording "hitherto with the consent of all the parties concerned", and noted that the phrase represented a clear departure from the traditional concept and practice of peace-keeping and therefore deserved more elaboration by the Secretary-General.

26. A view was expressed that the structure, composition and mandate of an existing peace-keeping operation should not be altered or changed without a specific decision of the Security Council. Parties to a conflict could not be allowed to unilaterally undermine a peace-keeping operation in disregard of a Security Council decision.

27. Some delegations noted that the Secretary-General placed the entire role of the United Nations in maintaining international peace and security in the context which ranged from preventive diplomacy to the consolidation of peace after the eruption of conflicts. In this context, it was maintained by them that preventive diplomacy, peace-keeping, peacemaking and post-conflict peace-building activities of the United Nations were interdependent and that coordination in those areas could be improved and enhanced among the relevant bodies of the United Nations system. However, some delegations were of the view that, although these activities had inter-linkages, they were independent activities within the competence of each United Nations organ and body.

28. Referring to post-conflict peace-building activities of the United Nations, it was also noted that this concept should envisage not only the establishment of various kinds of comprehensive assistance, but should be based on the specific obligations and binding agreements among States and on effective international guarantees and an adequate control mechanism.

29. Touching on the Secretariat units in charge of peace-keeping operations, some delegations viewed as a welcome development the proposed expansion of the Military Adviser's Office. They also welcomed the appointment of a mine-clearing expert. A suggestion was made that the Secretary-General should also appoint specialized advisers on police matters.

30. However, a number of delegations voiced concern that the Secretary-General did not elaborate in his report some of the structural and administrative issues that affected the Secretariat's capacity to manage peace-keeping operations effectively. For instance, they expressed again their hope to see the Field Operations Division integrated with the Department of Peace-keeping Operations in one unit, as an essential way to increase efficiency in the management of peace-keeping operations. Another suggestion was made that the Secretary-General should establish a "situation room" for peace-keeping operations.

31. With regard to the financing of peace-keeping operations, many delegations shared the concern of the Secretary-General with the growing disparity between the ever-rising demand for peace-keeping operations and the financial resources available for them. They were once again in full agreement that for effective functioning of peace-keeping operations, it was ever more imperative for the United Nations to secure a sound financial basis for peace-keeping operations. The key, in the view of delegations, still lay in Member States paying their assessed contributions in full and on time, bearing in mind that this was a matter of collective responsibility for all Member States.

32. Some delegations reiterated that in the light of the political and economic realities, the current special scale of assessment was the only viable mechanism adopted for the financing of peace-keeping operations and therefore should be institutionalized.

33. All delegations agreed that the proposals on the peace-keeping financing put forth in the report merit further detailed study by the competent financial bodies of the United Nations. Several delegations expressed their support for specific proposals of the Secretary-General in this regard, including the establishment of a revolving peace-keeping reserve fund at a level of US$ 50 million, provided that its purposes were clearly stated and related to peace-keeping operations, and further that contributions to the fund were made by Member States of the United Nations.

34. Some delegations noted that the report of the Secretary-General enumerated a whole range of proposals designed to strengthen the financial basis of peace-keeping operations, which, in their view, did not exclude a possibility to borrow resources from the private sector and a certain degree of commercial freedom of the Organization in this field. However, reservations were made by other delegations who believed that, although alternative sources of funding for peace-keeping operations should be examined, they should not be considered as a substitute for assessed contributions. They suggested further examination of the proposals by the competent bodies of the United Nations.

35. Some delegations shared the Secretary-General's concerns in his report that the lack of proper equipment could delay the start-up phase of an operation. To improve the situation, some of them supported in principle the stockpiling of equipment, while others commend the idea in the report that

Member States should keep appropriate equipment on stand-by for use by the United Nations.

36. Stressing the need to develop a framework for a joint training programme for future peace-keeping operations, a number of delegations took note with appreciation of the steps taken by the Secretary-General in starting to implement the recommendations by the Special Committee in this regard. They support his recommendation that arrangements for training of peace-keeping personnel should be reviewed and improved, using the varied capabilities of Member States, non-governmental organizations and the facilities of the Secretariat. However, some delegations expressed the view that peace-keeping operations were the collective responsibilities of Member States, and therefore that Member States should play a primary role in the training of peace-keeping personnel.

37. To increase the readiness of the United Nations to launch peacemaking activities, it was proposed that contributions by Member States to the establishment of a stand-by pool of qualified personnel in the fields of electoral assistance, civil administration and human rights might be helpful. A suggestion was also made that the concept of the present questionnaire on the availability of military personnel and equipment should also be applied to non-military resources for peace-keeping operations, including civilian police, election monitors and non-military equipment.

38. Some delegations maintained that, in order to enhance his peacemaking capability, the Secretary-General should be provided with the necessary political support as well as adequate resources. A proposal was made that an evaluation mechanism should be developed within the Secretariat with the purpose of systematically collecting, analysing and retaining experience gained from peacemaking activities.

39. Recommendations of the Secretary-General concerning the use of military force drew serious attention from delegations. Interest was shown by some delegations in the proposed establishment of peace enforcement units which, in the view of delegations, fell somewhere between the traditional peace-keeping role and the use of force as envisioned under Article 43 of the Charter. Some delegations noted that the proposal was worth serious consideration.

40. However, a number of potential problems of the proposed peace enforcement units were pointed out. First, those units would inevitably have to take sides in any dispute and thus call into question the neutral role of the original United Nations force that might have been on the ground as a result of the cease-fire in the first place. The second problem related to their rapid availability as it might prove to be hard to satisfy in a tight time-frame the terms of reference and other specific criteria set for them. Thirdly, there might be reluctance on the part of Member States to hold their national forces on call for unknown but certainly hazardous and politically sensitive tasks. Finally, there was a question of the capacity of the Secretary-General and his staff to command and control such units in action in the field.

41. Furthermore, a delegation expressed the concern that the discussion of Article 43 concerning forces and the proposed peace enforcement units under the heading of peacemaking in the Secretary-General's report might lead to confusion among Member States, stating that it was useful to maintain a clear distinction between the concepts of peacemaking, peace-keeping and peace enforcement.

42. Clear support was expressed by some delegations for the possible use of measures under Chapter VII of the United Nations Charter, provided that conditions warranted such measures and that the establishment of United Nations forces and their mandate were clear and based strictly on the provisions of the Charter. They also endorsed the recommendation of the Secretary-General that the Security Council initiate negotiation with Member States to reach agreements with the United Nations under Article 43 of the Charter to make available armed forces, assistance and facilities necessary to maintain international peace and security. A point was made that it was necessary for the Security Council to present clear and firm guidance on this recommendation.

43. However, some delegations expressed reservations in this regard and maintained that measures under Chapter VII of the Charter should only be envisaged as a last resort and only after having exhausted provisions of Chapter VI. Some delegations emphasized that Member States should be on guard against a tendency of overemphasizing the military solution by the United Nations in disregard of the reality of the conflict, for it would not be helpful in solving real problems. One delegation went further by stating that on the proposed establishment of military forces under Chapter VII of the Charter, the report of the Secretary-General offered an interpretation of the Chapter which might contradict its spirit. The creation of permanent armed forces, in the view of that delegation, did not seem to be in full conformity with the sense and meaning of the norms embodied in the Charter.

44. Some delegations noted with satisfaction that a major theme in the Secretary-General's report was the role that could be played by regional organizations in maintaining international peace and security. They considered that in many conflict situations, a bigger and more effective role could be played by the relevant regional organizations in coordination with the United Nations.

45. During the discussions, attention was drawn to the efforts of the Commonwealth of Independent States to establish, in accordance with standards of the United Nations, a solid political and legal basis for the establishment and maintenance of peace-keeping operations for the Commonwealth. A view was expressed that the concept of peace-keeping operations in the Commonwealth of Independent States reflected some of the ideas which had been expressed in the report of the Secretary-General, in particular the idea of using these operations not only in the traditional framework but also to restore peace through armed pressure if needed, on uncontrolled military formations.

46. Some delegations, noting the advantages of the universality of peace-keeping operations, expressed doubt about the idea contained in paragraph 44 of the present report, stating that it was still premature to expect every regional arrangement or organization to play an active role for regional peace and security. They also emphasized that cooperation between regional organizations and the United Nations must be carried out strictly in accordance with Chapter VIII of the Charter so as not to dilute the role of the United Nations in fulfilling its basic responsibilities in any manner.

47. Some delegations appreciated the proposal of the Secretary-General for devising, in addition to those envisaged under Article 50 of the Charter, measures which could insulate States from special economic difficulties arising from the imposition of economic sanctions imposed on certain States by the United Nations. A suggestion was made that such measures should set in place mechanisms which came into operation immediately and automatically as soon as sanctions were imposed.

48. Sharing the concern of the Secretary-General with the safety of peace-keeping personnel, delegations noted with appreciation his evaluation that, as the variety and scale of threat to peace-keeping operations widened, innovative measures would be required to deal with the dangers facing peace-keeping personnel. A point was made that the time had come to explore the possibility of drafting an international legal instrument on ensuring the safety of United Nations peace-keeping personnel, which would hold host States, as well as other parties to the conflict, responsible for the use of force against peace-keepers.

49. Many delegations indicated their support for the recommendation in the report that greater use be made of the International Court of Justice for the settlement of international conflicts. Such action would be helpful, in their view, if the jurisdiction of the Court was more widely accepted by Member States. While acknowledging that the recourse to the jurisdiction of the International Court of Justice was a highly useful mechanism in resolving disputes in a peaceful manner, a view was expressed that such recourse to the Court should be considered on a case-by-case and voluntary basis.

50. The open-ended Working Group completed a draft special report at its meeting on 24 August 1992 and submitted the draft to the Special Committee.

51. At its 111th meeting, on 25 August 1992, the Special Committee considered and adopted its special report to the forty-seventh session of the General Assembly.

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ESTABLISHMENT OF A NUCLEAR-WEAPON-FREE ZONE IN THE REGION OF THE MIDDLE EAST

Report of the Secretary-General

I. INTRODUCTION

1. In paragraph 7 of its resolution 46/30, of 6 December 1991, the General Assembly requested the Secretary-General to conduct further consultations with the States of the region and other concerned States, on the basis of the study undertaken by him in accordance with paragraph 8 of resolution 43/65 (A/45/435, annex), as well as the views and suggestions submitted by Member States in accordance with paragraph 9 of resolution 45/52 (A/46/291 and Add.1 and 2), taking into account the evolving situation in the region, to explore further the ways and means of establishing a nuclear-weapon-free zone in the Middle East. In paragraph 8 of the same resolution, the General Assembly also requested the Secretary-General to submit to it at its forty-seventh session a report on the implementation of that resolution.

2. The present report is submitted in response to the request contained in paragraph 8 of the resolution.

II. ACTION TAKEN

3. In accordance with the request contained in paragraph 7 of resolution 46/30, the Secretary-General has undertaken a number of consultations with concerned parties within and outside the region to explore further the ways and means of establishing a nuclear-weapon-free zone in the Middle East.

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4. In the resolution, the General Assembly requested the Secretary-General, in undertaking those consultations, to take into account, inter alia, the evolving situation in the region. In this connection, a constant point raised by all of those consulted was the importance of the present peace initiative on the Middle East, launched at Madrid in October 1991, which has since then commenced both its bilateral and multilateral tracks.

5. Indeed, it was the shared opinion that, in the light of these developments, it would be premature at this time for the Secretary-General to take any further action relating to the question of the establishment of a nuclear-weapon-free zone in the Middle East. The ongoing peace initiative on the Middle East offers a window of opportunity in the process of resolving the overall situation in the region. The Secretary-General earnestly hopes that the efforts of all those involved will be rewarded with positive results.

6. Furthermore, in his foreword to the study on effective and verifiable measures which would facilitate the establishment of a nuclear-weapon-free zone in the Middle East (A/45/435), the Secretary-General noted that the establishment of the zone "should come eventually as a result of building sufficient confidence amongst the principal actors in the region at which point formal undertakings to that effect could be initiated". In this connection, the Secretary-General wishes to recall that the study discusses a number of steps and measures that could contribute to this process. As noted in the foreword, "they could be undertaken independently or in conjunction with each other, as well as by individual States or jointly by several, and also on a reciprocal basis. Each of them would move the States concerned closer to their ultimate objective - the establishment of a zone free of nuclear weapons" in the region of the Middle East.